

**EMPLOYMENT AND TRAINING ADMINISTRATION
QUESTIONS AND ANSWERS - JTPA INTERTITLE FUND TRANSFERS**

QUESTION 1:

What is the exact language for the transfer of funds?

ANSWER:

The language is from four sources:

1. Job Training Partnership Act (JTPA),
2. FY 1995 Rescission Bill (Public Law 104-19),
3. FY 1996 appropriations bill (Public Law 104-134),
4. Appropriations Conference Report (Congressional Record, April 25, 1996, page H 3953).

1. JTPA

a. Section 206 (title II-A): "A service delivery area may transfer up to 10 percent of the amounts allocated to the service delivery area under section 202(b) to the program under part C if such transfer is --

- (1) described in the job training plan, and
- (2) approved by the Governor.

Note: Underlining added for emphasis and to clarify that the 10% applies only to the amount allocated to the SDA under the formula, and does not apply to other funds that have been transferred into the program from another program.

b. Section 256 (title II-B): "A service delivery area may transfer up to 20 percent of the funds provided under this part to the program under part C if such transfer is approved by the governor."

c. Section 266 (title II-C): "A service delivery area may transfer up to 10 percent of the amounts allocated to the service delivery area under section 262(b) to the program under part A if such transfer is --

- (1) described in the job training plan, and
- (2) approved by the Governor."

Note: Underlining added for emphasis and to clarify that the 10% applies only to the amount allocated to the SDA under the formula, and does not apply to other funds that have been transferred into the program from another program.

2. FY 1995 Rescission Bill (PL 104-19): "...Provided further, That service delivery areas may transfer up to 50 percent of the amounts allocated for program years 1994 and 1995 between the title II-B and title II-C programs authorized by the Job Training Partnership Act, if such transfers are approved by the Governor."

This language overrides the JTPA language regarding transfers for funds appropriated in PY 1994 and PY 1995 for the II-B and II-C programs, i.e., the 50% overrides the 20%, and authorizes for the first time transfers from II-C to II-B.

Note: Underlining added for emphasis and to clarify that the 50% applies only to the amount allocated to the SDA under the formula, and does not apply to other funds that have been transferred into the program from another program.

3. FY 1996 appropriations bill language (Pub. Law 104-134): "Provided further, that service delivery areas may transfer funding provided herein under authority of titles II-B and II-C of the Job Training Partnership Act between the programs authorized by those titles of that Act, if such transfer is approved by the Governor: Provided further, that service delivery areas and substate areas may transfer funding provided herein under authority of title II-A and title III of the Job Training Partnership Act between the programs authorized by those titles of the Act, if such transfer is approved by the Governor:..."

The above language pertains to the funds appropriated under the FY 1996 bill: PY 1996 title II-A, title II-C and title III funds, and FY 1996 II-B funds.

4. Conference Report: "The agreement includes language to permit service delivery areas to transfer funds between titles II-B and II-C of the Job Training Partnership Act, with the approval of the Governor of the State. The House and Senate bills only permitted the transfer to take place from title II-C to title II-B. In addition, the agreement permits the transfer of funds between title II-A and title III of the Act as proposed by the Senate, instead of permitting the transfer

of funds between all title II programs and title III as proposed by the House."

Note: Transfers were not permitted between titles III and II-C.

Attachment 2 shows the intertitle transfers that are authorized among titles II-A, II-B, II-C, and between title II-A and title III.

QUESTION 2:

How will this authority affect service delivery area (SDA)/substate area (SSA) programs?

ANSWER:

The authorization is to provide States and local communities with the flexibility to design programs and allocate resources to best serve the employment and training needs of dislocated workers and disadvantaged youth and adults. The intent is also to allow greater flexibility as the system moves toward an integrated workforce development approach to consolidate programs and give greater authority to State and local decision makers.

States and SDAs are encouraged to use this new transfer authority to assist them in their development of integrated workforce development systems which incorporate One-Stop Career Centers, School-to-Work systems, and integrated systems for serving disadvantaged and at-risk youth. For further program guidance see TEGL No. 4-95, dated February 21, 1996.

QUESTION 3:

What are the beginning and ending dates for spending the funds, and when can transfers be made?

ANSWER:

The beginning and ending dates differ according to different legislative provisions.

Section 161(b)(1) applies to funds appropriated on a program year basis and states: "Funds obligated for any program year may be expended by each recipient during that program year and the two succeeding program years ..." For clarification purposes the word "obligated" in the first line of section 161(b)(1) pertains to the Federal obligation of funds (through a Notice of Obligation) and not to the recipient's obligation of funds.

Thus, the above language applies to program year funds, but does not apply to the FY 1996 II-B funds. (These FY title II-B funds are available for up to five years for expenditure, but it is assumed that they will be expended within the grant period). However, should FY 1996 II-B funds be transferred to the PY 1996 II-C program, those funds can be expended during the life of the PY 1996 II-C funds (6/30/99). On the other hand, should PY 1996 II-C funds be transferred to FY 1996 II-B, the transferred funds retain their PY 1996 II-C life. Only PY 1996 funds may be transferred between title II-A and III; therefore, the transfers could occur any time between July 1, 1996 and June 30, 1999 or until funds are expended, whichever occurs first.

The attached table summarizes the intertitle transfer rules for each year of funds. The year of the funds determines the rule to be followed in transferring the funds. For example, PY 1995 funds available for expenditure in PY 1996 may be transferred based on PY 1995 allocation base and according to PY 1995 rules. (PY 1995 funds expended in PY 1996 cannot be transferred by PY 1996 rules.) The transfers can be made at any time during the life of the funds.

QUESTION 4:

What is the Governors' role in approving transfer requests?

ANSWER:

The Governor is responsible for establishing procedures and approval criteria for processing transfer requests, as well as accounting and reporting procedures for tracking these funds. It is expected that the Governor will establish policy on transfers. The procedures should include the State Job Training Coordinating Council pursuant to its advisory responsibilities to the Governor regarding resource allocations. [Sec. 122(b)(2)] These procedures may also

include, at the Governor's discretion, modifications to SDA/SSA Job Training Plans and procedures for the timing and frequency of transfers. In considering transfer requests, the Governor should ensure that procedures are in place that will address the employment and training needs of eligible JTPA program participants within the SDAs/SSAs and the State as a whole to assure the maintenance of adequate funding levels.

Approval criteria established by the Governor should include, but are not limited to, such factors as:

1. Policy established by Governors in the Governor's Coordination and Special Services Plan (GCSSP), including the Governor's Statement of Goals and Objectives. [Sec. 121]
2. Impact on GCSSP coordination responsibilities under Sec. 121(b)(1), 205, and 265.
3. Impact on jointly funded employment and training programs. [121(c)(11)]
4. Impact on existing agreements for the delivery and/or coordination of employment and training services.
5. Impact on current State, SDA or SSA employment and training systems.
6. Changes in labor market conditions.
7. The extent to which the proposed transfer improves the delivery of employment and training services.
8. Comments from stakeholders and the public regarding resource utilization, e.g., transferring funds to and from disadvantaged and dislocated workers and to/from youth programs and II-A programs.
9. Impact on the employment and training needs of eligible participants in the SDA, SSA or State from which funds have been transferred.
10. Consistency with local plans.

QUESTION 5:

What changes are planned for the 1996 Federal Notice of Obligation and the authorizations maintained in HHS's Payment Management System?

ANSWER:

With the increased latitude to transfer funds between titles and our objective to minimize recordkeeping requirements, the PY 1996 titles II-A, II-C and III formula funds will be combined into one financial key on both the Notice of Obligation (NOO) and in the HHS Payment Management System (PMS). The backup to the NOO will provide the specific amounts for each title.

Because the 1996 Appropriations bill identifies the title II-B funds as FY 1996 funds (instead of PY funds) II-B funds will be accounted for separately and will remain in the PY 1995 grant agreement. These funds will be separately identified in the NOO and in PMS.

Notes:

1. For accounting ease, a State may wish to assume that the funds transferred into PY 1996 II-C from FY 1996 II-B and the funds transferred into FY 1996 II-B from PY 1996 II-C are expended first and corresponding cash is drawn down first. (The life of the transferred funds, however, should be considered in making this decision.)

2. The Administration has requested funding for the 1997 summer program. These funds would be FY 1997 funds (not PY funds) and would be added to the PY 1996 grant agreement and accounted for separately, similarly to how the FY 1996 II-B funds are handled.)

QUESTION 6:

What is the identity of transferred funds?

ANSWER:

Transferred funds always retain year of appropriation identity. (For FY 1996 title II-B funds, see answer to Question 3.)

When funds are transferred to another title, they take on the character of that title and are therefore subject to all of the rules and regulations of the receiving title and Part. This includes cost limitations, eligibility requirements and provision of services.

QUESTION 7:

How are cost limitations applied to transferred funds?

ANSWER:

Funds are transferred in the total amount and do not take on cost category identity until they are expended. Transferred funds are subject to the rules and regulations of the receiving title/part. Funds are not transferred by cost category. The remaining funds left in a title continue to be expended under requirements of that title.

The FY 1996 Appropriations Bill provides for cost limitation flexibility for PY 1996 title III formula funds. Similar flexibility was provided for PY 1995 funds (see TEGL 12-94, dated May 31, 1995).

QUESTION 8:

When transferring funds from one title to another, will the performance standards remain attached to the funds?

ANSWER:

When funds are transferred from one title to another, the performance standards that apply to the titles are not changed. For example, when title III funds are transferred to title II-A, the additional resources should result in an increase in II-A expenditures. The enhanced program will be subject to the performance standards in title II-A.

When individuals (not funds) transfer titles, the performance standards of both titles apply. The program has a choice of either enrolling the participant in both titles or terminating the person from the original title and enrolling the individual in the receiving title. In the latter case, the originating title may incur a negative termination, particularly if the transfer is from II-A to III. When programs choose to co-enroll the person in both titles, the person's outcome is subject to standards in both titles.

QUESTION 9:

Should prior notice on transfers be provided to the Federal Grant Officer? How will the Department learn of these transfers?

ANSWER:

No prior notice is required to the Department relative to transfers. However, DOL will require the reporting of transfers that have been made. This will be shown on the quarterly reports submitted to ETA (see Question 19.)

QUESTION 10:

What is the base for computing maximum allowable transfers?

ANSWER:

The transfer of funds is limited to funds that have been allocated to the SDAs by the State, i.e., the 77%/82% formula funds and the funds allocated to SSAs by the Governor from the title III formula allotment. The 23 percent in title II-A, 18 percent in title II-C and the formula funds reserved by the Governor in title III are not available for transfer.

QUESTION 11:

Can transferred funds be used at the State level to increase set-aside funds (e.g., administration)?

Answer:

No. The use of transferred funds is only at the SDA/Sub-State levels, and not at the State level. Thus, these funds cannot be used for State level costs.

QUESTION 12:

Are title III Secretary's Discretionary Funds (National Reserve Grants) available to transfer to title II-A?

ANSWER:

No. Only formula funds allocated to the SSA by the Governor from the State's title III formula allotment are available for transfer.

QUESTION 13:

What is the impact of the transfer of title III funds to title II-A on the State's ability to request NRA funds?

ANSWER:

NRA requests are always reviewed in terms of other resources available and systems that can provide the necessary assistance without additional funds. Generally, NRA funds will not be made available to provide services that could have been provided with title III formula funds allotted to a State (including funds that have been transferred to II-A).

ETA will review and evaluate applications for NRA funds in the following manner in SSAs where funds have been transferred from title III to title II-A:

- ! If not more than 20 percent of the applicable substate formula allocation has been transferred, States may apply for NRA funds without restriction.
- ! If more than 20 percent of the applicable substate formula allocation has been transferred to title II-A, the State and/or substate area will be required to provide a financial match for any NRA funds awarded. THE REQUIRED MATCH WILL TAKE INTO ACCOUNT THE LEVEL AND RATE OF EXPENDITURE OF TITLE III FUNDS AVAILABLE FOR THE PROGRAM YEAR, AND THE AMOUNT OF TITLE III FUNDS TRANSFERRED TO TITLE II-A AT THE TIME AN APPLICATION FOR NRA FUNDS IS SUBMITTED.

Exceptions will be considered in certain circumstances such as temporary job creation in response to natural disasters, assistance to workers impacted by BRAC-related closures, mass layoffs and plant closures without notice or in other situations as approved by the Secretary.

- ! If more than 50 percent of the applicable substate formula allocation has been transferred to title II-A, the State and the substate areas are certifying that there is not an expected need in that substate area to provide assistance to a substantial number of dislocated workers and will not qualify for NRA funds, exclusive of natural disasters or BRAC-related closures, for the PY covered by the formula allocation. Other NRA requests will be considered

only when it is demonstrated that the title III funding level for the substate area is at least 50 percent of the initial formula allocation level, e.g., transferred funds may be returned to title III.

Notwithstanding these criteria, the Secretary retains the discretion to obligate NRA funds in a manner that targets resources to areas of most need and that promotes the effective use of funds for eligible dislocated workers.

QUESTION 14:

How does this transfer authority affect the title III recapture/reallotment policy (Sec. 303) and the title II-A recapture/reallotment policies?

ANSWER:

The answer to this question is dependent upon which title's funds are involved.

The JTPA, section 303, requires the Secretary to recapture from States unexpended Title III formula funds in excess of 20% of the annual formula allotments to the States. For the purpose of including the inter-title transfer authority, the net allotment for determining funds subject to recapture will be used and calculated as follows:

- * the initial title III allotment to the State at the beginning of the program year;
- * plus or minus the increase or decrease in the allotment as a result of recapture/reallotment activity; and
- * plus or minus the net increase or net decrease as a result of inter-title transfers into or out of Title III.

Therefore, maximum amount of carryover from the year of allotment to the next program year is the amount of the allotment, as adjusted for reallotment and fund transfers, (i.e., net transfers from title II-A to title III will increase the funds available and 20 percent of that larger

amount can be carried forward without recapture; net transfers from title III to title II-A will decrease the funds available and 20 percent of that smaller amount can be carried forward without recapture). It is expected that a consistent policy for determining excess unexpended funds at the substate level will be followed by the states when applying their own reallocation procedures.

The JTPA, section 109 (b) requires the Secretary to reallocate to eligible States, Title II-A and II-C unobligated funds in excess of 15 percent of each State's allotment. However, since Title II reallocation procedures apply only to unobligated funds and since transfers can only occur at the substate level, there is no impact on Title II reallocation procedures, i.e., funds at the SDA/SSA level have, by definition, been obligated by the State.

It is expected that Title II substate reallocation procedures [Sec. 109 (a)] will be affected by the new transfer authority. Therefore, a transfer of funds from title II-A to title III would lower the base against which unobligated funds in excess of 15 percent would be determined. A transfer of funds from title III to title II-A would increase the base against which the determination is made.

QUESTION 15:

Will the allocation formula be affected by transfers that have taken place in a previous year?

ANSWER:

No. The same formula will be used, regardless of any transfer action in previous years.

QUESTION 16:

What State Level Plan Modifications are required for titles II and III?

ANSWER:

The requirements differ for the two titles.

GCSSP: Section 121(b)(7) of the Act provides that if major changes occur in labor market conditions, funding, or other factors during the two-year period covered by the plan, the

State shall submit a modification to the Secretary describing the changes. This is further clarified in the GCSSP planning guidance which includes the OMB approved format for modifications. Specifically, it states that if major changes occur in labor market conditions, funding, or other factors during the period covered by the plan, the State shall submit a modification describing these changes. For the purposes of determining if a modification is necessary, a major change is defined as cumulative change of 20 percent of these factors in the plan.

TITLE III BIENNIAL PLAN: There is no requirement that title III State plans be modified to show increases in allotments or available funds to the States or to the Substates: therefore, no modifications would be required by the Department for any transfers made into or out of title III. That information can be collected from Quarterly reporting discussed elsewhere.

QUESTION 17:

When SDAs request State approval to transfer title II funds, are they required to submit modifications to their job training plans?

ANSWER:

Yes, in accordance with instructions established by the State (except in the case of the Single State SDA as noted below).

Section 104(c) of the Act provides that if changes in labor market conditions, funding, or other factors require substantial deviation from an approved job training plan, the private industry council and the appropriate chief elected official or officials (as described in section 103(c)) shall submit a modification of such plan (including modification of the budget under subsection (b)(6)), which shall be subject to review in accordance with section 105 of the Act.

Further, Section 628.420(e) of the JTPA regulations provides that the (1) any major modification to the SDA job training plan shall be jointly approved and jointly submitted by the PIC and the chief elected official(s) of the SDA to the Governor for approval. (2) For the purposes of this section, the circumstances which constitute a "major" modification shall be specified by the Governor.

In the case of Single State SDAs, Section 105(d) of the Act provides that when the SDA is the State, the Governor shall submit the job training plan and any modifications to the Secretary for approval. The State SDA submission requirements are further clarified in Section 628.430 of the JTPA regulations. The Act and the regulations do not make a distinction between major or minor modifications to a Single State SDA's job training plan. This would indicate that all plan modifications must be submitted to the Secretary. However, so as to be consistent with the provisions which apply to major modifications to the GCSSP, States will be required to submit modifications to the Secretary for approval when there is a cumulative change of 20 percent in labor market conditions, funding, or other factors during the period of the plan.

QUESTION 18:

When SSAs request State approval to transfer funds, are they required to submit modifications to their substate title III plans?

ANSWER:

Yes. The governor will establish guidelines. However, under Section 313 of the Act, substate plans (or modifications thereto) must be submitted to the Governor describing the manner in which activities will be conducted within the SSA area with the funds obligated to the area. ETA believes a transfer of funds from title III to serve individuals who are not eligible for Title III would constitute how title III funds will be utilized in that SSA. Public review provides appropriate input into such a decision. It is expected that any transfer decision would be based upon an analysis of the local labor market and the needs/availability of individuals who are eligible to receive services under the various titles.

QUESTION 19:

What are the rules for reporting transferred funds?

ANSWER:

After funds are transferred, they are expended under the rules and regulations governing the receiving title and/or part.

Total available funds are increased and expenditures associated with transferred funds are, therefore, reported against available funds in the receiving title and/or part. The transferred amount should be recorded on both the sending and receiving reporting forms in the appropriate columns and line items as described below and in the attached examples.

NOTE: The title II and title III financial reports are State summary reports. Since the transfers are made at the SDA/SSA level, the transferred amount shown on the State summary report is a net of the SDA/SSA transfer actions. In addition, the report entries for title II-A can reflect the net of transfers from both title III and from title II-C; and, title II-C can reflect the net of transfers from title II-A and from FY 96 II-B.

Sample quarterly financial reports are attached, showing offsetting entries. Following is further clarification with regard to each of the reporting forms.

1. Title II Job Training Partnership Act (JTPA) Quarterly Financial Report - (JQSR)

a. Title II-A and II-C. Follow the reporting instructions issued in TEIN No. 6-93, plus Changes 1 & 2, for reporting transfers within title II. There is no change in the treatment of transfers between II-A and II-C.

b. Title III. Transfers to or from title III should be identified in the Remarks Box as a cumulative net amount to reflect a net plus or minus dollar change to available II-A funds. The comment should also identify both the sending PY and title/part and the receiving PY and title/part. (See sample JQSR).

- In addition, the effect of the transfer should be reflected on Line 2 of Column (A).

- Line 18 of Column A must also equal Line 2 of Column A.

c. Title II-B. Transfers to or from FY 1996 title II-B should be identified in the Remarks Box as a cumulative net amount to reflect a net plus or minus dollar change to available II-C funds. The comment should also identify both

the sending PY/FY and title/part and the receiving PY/FY and title/part. (See sample JQSR).

- In addition, the effect of the transfer should be reflected on Line 2 of Column (C).

- Line 18 of Column C must also equal Line 2 of Column C.

NOTE: A separate JQSR is required for reporting FY 1996 II-B transfers. (See TEGL No. 5-95, dated April 12, 1996.) The II-B Column of the PY 1996 JQSR should be left blank.

2. Title III Worker Adjustment Formula Financial Report - (WFFR)

a. Transfers to or from title III should be identified in the Remarks Box as a cumulative net amount to reflect a net plus or minus dollar change to available title III Substate funds. The comment should also identify both the sending PY and title/part and the receiving PY and title/part. (See sample WFFR).

b. The effect of the transfer should be reflected on Line 10 of the PY 1996 Column.